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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/253,117	02/19/99	KIRALY J	ASCI-006

LM02/1003

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EXAMINER	
BROWN, R	
ART UNIT	**PAPER NUMBER**
2711	10

DATE MAILED: 10/03/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No. 09/253,117	Applicant(s) Kiraly
	Examiner Reuben M. Brown	Group Art Unit 2711

☒ Responsive to communication(s) filed on *Jul 28, 2000* .

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *3* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-44* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-44* is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐approved ☐disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 7/28/2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/253,117 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding independent claims 1, 8, 15, 24 & 35, the phrase "pseudo simultaneously" is vague & indefinite because it does not clearly set forth the metes and bounds of the claimed invention. Accordingly, claims 2-7, 9-14, 16-23, 25-34 & 36-44 are also rejected since they inherit the deficiencies of independent claims 1, 8, 15, 24 & 35.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

5. Claims 1, 6-9, 13-15, 21-26, 32-36 & 42-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Fujita (US 5,948,070).

Considering claims 1, 15, 24 & 35, the instant claims are examined as best understood, in light of the above 112 rejection. Fujita discloses a file transfer systems and methods for **broadcasting** files to a plurality of receiving destinations comprising the steps of: causing a sending communication processing node A transmitting a first stream representing digital broadcast information to relaying communication processing node B wherein nodes A and B are coupled to WAN and LAN (Figs. 1 and 10); causing a sending communication processing node A to communicate a second stream representing broadcast information to a second relaying communication processing node C wherein node C is coupled to the WAN (Id.); causing the first relaying communication processing node B to communicate a third stream representing broadcast

information to a receiving communication processing node E wherein node E is also coupled to the WAN (Id.); and relaying in reduced time the broadcast information to nodes B, C, and E, see Fujita (col. 6, lines 10-45; col. 8, lines 1-20)..

Regarding claims 1, 15, 24 & 35, the claimed connection to the Internet is broad enough to read on the Wide Area Network (WAN) as illustrated by Fujita, since the Internet is also a communications network that connects geographically separated areas.

As for claim 35, the instant claim includes the limitation that the server is configured by a transmission scheduler to communicate the digital streams to the first & second devices and that the scheduler maintains communication links between the sever and first, second & third user devices. Accordingly, examiner points out that Fujita discloses that the main sending node A, includes a File destination sorting means 2 and Relay information table 5, which read on the operation of the claimed transmission scheduler, of the instant claim, (Fig. 2; Fig. 3; col. 6, lines 48-68).

Regarding claims 6, 21-23, 32-34 & 42-44, Fujita shows the step of having receiving communication nodes H and I coupled to the WAN and causing relaying communication node D to communicate a stream of broadcast information to nodes H and I (Fig. 1). Therefore Fujita

anticipates adding any number of relaying nodes which, will receive broadcast information and transmit the instant received broadcast information on to a receiving destination.

Regarding claim 7, Fujita also reveals a method wherein sending communication processing node 100 transferring broadcast files to a plurality of user nodes 200, 201, and 202 (Fig. 10).

Concerning claim 8, Fujita shows a method of broadcasting files over a network of electronic devices comprising the steps of: sending broadcast information from a sending means 100 to a first group of electronic devices on the network; and achieving reduced time broadcasting of the files for the first group and the second group of electronic devices for relaying the broadcast files from the first group to the second group. Furthermore, Fujita explicitly teaches that the purpose of the present relaying system, is to allow the efficient (i.e **timely**, emphasis added) broadcasting of a file without increasing the load on the communications system, even though the number of receiving destinations increases, (col. 1, lines 60-67). Since by definition a transmitter which broadcasts information, as is disclosed in Fujita (col. 1, lines 8-13), would necessarily desire at least nearly simultaneous reception of the instant transmitted information to the designate destinations, thus the examiner contends that the invention of Fujita is directed to addressing the claimed requirement of 'pseudo simultaneous'.

Regarding claim 9, Fujita teaches direct communication links between the first group of electronic devices and the second group of electronic devices (claims 1 and 2).

Regarding claim 13, Fujita discloses a first and second set of electronic devices each comprising a computer system configured for receiving and relaying broadcast information (Fig. 1).

Regarding claim 14, the claimed connection to the Internet is broad enough to read on the Wide Area Network (WAN) as illustrated by Fujita, since the Internet is also a communications network that connects geographically separated areas.

Considering claims 25-26 & 36, Fujita discloses the utilization of a File destination sorting means 2 and a Relay information table 5, (Fig. 2; col. 6, lines 48-67) which reads on the subject matter of the instant claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 2-4, 16-19, 27-30 & 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita (US 5,948,070).

Regarding claims 2-4, 16-19, 27-30 & 37-40, Fujita teaches a system and a method of transferring, communicating and **broadcasting** "files", but does not disclose the specific types or content of the files. Nevertheless, at the time the invention was made, transferring and broadcasting radio, audio, visual television and computer program files over a communications network was very well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fujita to broadcast radio, audio, visual, television and computer files so that a user may access audio/video and program data in order to have a full interactive entertainment system.

8. Claims 5, 10-12, 20, 31 & 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita, in view of Nederlof, (U.S. pat # 5,590,118).

Considering claims 5, 11, 20, 31 & 41, Fujita reveals relaying communication nodes B, C, D, and G wherein these nodes are capable of receiving files and further relaying and communicating broadcast files to a plurality of users (Fig. 1). Even though Fujita provides relaying communication nodes capable of relaying to a plurality of user nodes, Fujita does not discuss the circumstances of a failure of one of the nodes in the system. Nevertheless, at the time the invention was made, alternate path routing of data was well known in the art and is disclosed by Nederlof (Abstract; col. 3, lines 25-35). Thus, it would have been obvious to one skilled in the arts to modify Fujita to re-route scheduled relay broadcast files to user nodes, from a different node, if the designated relaying communication nodes shuts down , for the desirable improvement of a more reliable and reconfigurable communications network, as taught by Nederlof (col. 9, lines 32-38), thereby providing for a back-up system.

Considering claim 10, the step of periodically updating the status of nodes in a communication system is necessarily included in Nederlof, since the systems detects failed nodes and re-routes information in such cases, (col. 9, lines 32-41).

Considering claims 12, the claimed step of terminating communications links to inactive electronic devices or nodes, reads on the re-routing of data through a different communication path as taught by Nederlof. Moreover, it would have been obvious for one of ordinary skill in the art at the time the invention was made, to refrain from sending data to an inactive node, at least for the desirable benefit of conserving bandwidth.

Response to Arguments

9. Applicant's arguments filed 7/28/2000 have been fully considered but they are not persuasive.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

A) Jain, Sherman Teach alternate path routing in the event of a failure of link or node in a communication network.

B) Zhao Teaches indirect distribution of data in order to reduce system loading.

Any response to this action should be mailed to:

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or faxed to:

(703) 308-6306 or -6296, (for formal communications; please mark "EXPEDITED PROCEDURE", for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben Brown whose telephone number is (703) 305-2399. The examiner can normally be reached on M-Th from 8:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

ANDREW I. FAILE
SUPERVISORY PATENT EXAMINER
GROUP 2700